



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

JUN 10 2013

Nick Kaczor
United States Fish and Wildlife Service
Division of Refuge Planning
P.O. Box 25486
DFC
Denver, Colorado 80225

Dear Mr. Kaczor:

In accordance with our authorities under the National Environmental Policy Act, the Council on Environmental Quality's NEPA regulations, and Section 309 of the Clean Air Act, EPA has reviewed the draft Environmental Impact Statement and Land Protection Plan for the proposed Niobrara Confluence and Ponca Bluffs Conservation Areas in northeast Nebraska and southeast South Dakota in the general area of the Missouri National Recreational River. This LPP would guide the acquisition of conservation easements and fee-title for lands within the proposed conservation areas deemed high priority for their importance to trust species, recreation, historic conservation and river functionality. A Comprehensive Conservation Plan will be developed as a follow-on to the LPP to guide the management of these areas within the National Wildlife Refuge System. The DEIS includes three action alternative and a 'no action' alternative. The three action alternatives are distinguished by the land acquisition goals within each conservation area (5 percent, 10 percent and 15 percent of the total project area). The agencies have identified the middle action alternative as their preferred alternative. Acquisitions under all action alternatives will be secured with willing sellers using conservation easements for 80 percent of the acquisitions and fee-title purchase for the remainder.

NEPA serves an important role in the decision making process for federal actions that may have environmental effects. Through the NEPA process, federal agencies disclose and analyze the potential impacts of a proposed action and reasonable alternatives, as well as measures that could mitigate any potential harmful effects. NEPA brings transparency to the federal decision making process, requiring that other federal, state, tribal and local agencies, as well as citizens, are given a meaningful opportunity to provide comments, contributing to better informed federal decisions. Under Section 309 of the Clean Air Act, EPA is required to review and comment in writing on the environmental impacts of proposed federal actions. Our review is provided pursuant to the National Environmental Policy Act 42 U.S.C. 4231, Council on Environmental Quality regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act. The DEIS was assigned the Council on Environmental Quality number 20130091.

EPA believes this DEIS provides a strong foundation to support the NEPA process and supplement the LPP. While we appreciate this effort, we also have several recommendations for improving and completing the analysis as you move forward to finalize the NEPA process (Enclosure). In addition, we have several broader concerns regarding project design fundamental to the success of the LPP, the future CCP and the attainment and maintenance of the goals of the approach.



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The LPP and all action alternatives identified in the DEIS are founded on an almost complete reliance on the acquisition of conservation easements (80%) versus fee-title acquisition to achieve the project goals for ecological and river functionality and wildlife, fisheries and their habitats (Section 2.4). This approach could limit the extent to which acquired lands, within the Missouri River meander belt and possibly within tributary floodplains, will be allowed to reflect and respond to natural changes in river hydrology, i.e., cut and fill alluviation. Lands held in private hands, but under conservation easement, are not likely to be allowed to contribute to the dynamics of accretion and deposition within the meander belt. These dynamics are critical to the Outstandingly Remarkable Values (ORVs) identified as underpinnings to the landscape prioritization approach, particularly the three characteristics that support overall river function (Section 3.1, p. 28). Section 1.1 specifically states that “The need for this action is to identify and conserve high-priority sites for [trust] Federal trust species, recreation, historic areas, and river functionality.” It is not clear how a strategy premised primarily on the acquisition of conservation easements will address the needs of those trust species dependent upon a dynamic river platform or river functionality. Perhaps the DEIS and LPP could target those lands within the meander belt for fee-title acquisition, focusing easements on uplands. Currently, the DEIS and LPP make no distinction between which acquisition approaches are best applied to which lands and land types within the conservation areas.

Being that the overall goal of this project is to provide sustainable ecological and economic benefits within the middle Missouri River basin by maintaining native riparian and upland habitats that increase river functionality and recreational opportunities, specific and measurable indicators of achieving project goals should be included. Quantifiable objectives are consistent with an adaptive management approach and should be outlined for actions such as the creation of conservation areas and development of LPPs and CPPs. The DEIS and the LPP do not contain any measures for collecting data nor objectives against which to compare the monitoring data that is referenced in Section 1.2 ‘Decision to be Made.’ Using a measure based solely on the acreage acquired, for instance, will not provide the information necessary to determine whether ORVs are being protected, whether focal species are present and thriving, whether specific habitat types are being adequately protected and preserved, and therefore, whether this approach is successful. Although the DEIS itself does not address measures or benchmarks as part of an adaptive management approach, the LPP does state that a monitoring and research program will rely on population data for focal species to determine whether adjustments to conservation planning for these two conservation areas is needed (p. 191). However, this data, collected by other parties in implementing basin-wide recovery programs, is not specific to these conservation areas and will contribute little to any determination about the efficacy of the LPP or future CCP. Criteria, specific to this location, indicating how successful the project is in meeting the project goals and agency responsibilities should be expressly delineated.

Section 1.10 ‘Issues Not Addressed’ includes the authorized uses for which the Army Corps of Engineers operates the Missouri River Mainstem System (the System) under the 1944 Flood Control Act and through the Master Water Control Manual. The DEIS states that management of the two conservation areas will not “revise authorized purposes or water flows” specified by existing authorities or regulation, but does not address whether the current operation of the System will allow the LPP or CCP to achieve its goals. Section 4.3 includes a statement that “Current management of Missouri River dams is not in direct conflict with the goals of the proposed conservation areas.” This statement is intuitively incorrect otherwise there would be no need for the mitigative measures required by the 2003 Amended Biological Opinion on the operation of the System or authorized by Congress in the lower, channelized river. Section 4.2 provides ample detail regarding the impacts of System operation on “major ecological processes” with direct association with the ORVs this LPP is intended to support and restore. Statements throughout the DEIS which claim that the Missouri River is “flowing relatively

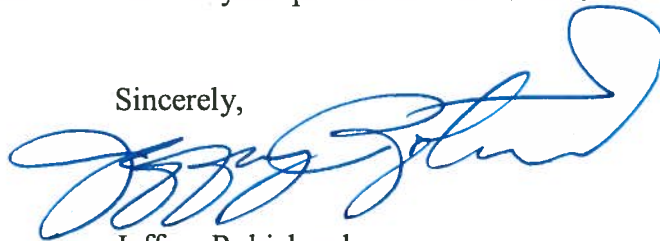
unrestricted through the rural landscape between Nebraska and South Dakota” (p. 23) seem intuitively wrong given the bracketing between the two mainstem dams. What is relevant to this EIS and the LPP is whether the expenditure of Federal funds in the acquisition of conservation easements and fee-title lands in the project area is a sustainable strategy given the operational parameters within which the Army Corps of Engineers operates the Missouri River Mainstem System. Section 5.14 discusses the possibility of the project action conflicting with State or Federal agency or program policies or goals, but the DEIS does not adequately consider or discuss the reverse possibility.

We have also enclosed comments specific to certain sections of the DEIS which might require additional clarification or explanation in the final EIS. We recommend revisiting the table of comments provided in our February 15, 2013, letter to confirm that you have addressed all the items. We have enclosed that letter and the table of comments.

Based on our overall review and the level of our comments, the EPA has rated the DEIS for this project ‘LO’ or Lack of Objections. A copy of EPA’s rating descriptions is provided as an enclosure to this letter.

As a cooperating agency for this effort, we have worked closely with you to suggest improvements to the content of the NEPA documentation and the LPP. We have also coordinated our review and comments with the NEPA Program in EPA Region 8 which is responsible for federal projects within the basin in South Dakota, North Dakota, Wyoming, Colorado and Montana. We appreciate the consideration you have given our comments and suggestions and your efforts to develop a detailed plan to protect and restore the natural and cultural resources of the Missouri River. We look forward to continuing that cooperation as you administer the LPP and CPP for these conservation areas. If you have any questions regarding these comments, please contact Larry Shepard at 913-551-7441 or shepard.larry@epa.gov.

Sincerely,



Jeffery Robichaud
Deputy Director

2 Enclosures

cc: Amy Platt, US EPA Region 8

Areal Extent of Project Areas

In our February 15, 2013, letter, we suggested that you provide more detailed information regarding how the project areas were determined. Section 1.1 'Purpose and Need for Action' describes how the Niobrara Confluence Conservation Area and the Ponca Bluffs Conservation Area boundaries were determined using watershed order rather than stream order or Hydrologic Unit Code numbering. This delineation description is confusing as it appears to rely on both stream order and a HUC framework. We suggest using HUC digits to reference watershed size. However, even with this clarification, this explanation does not substantially address our earlier suggestion. We suggest another attempt at specifically describing, in detail, why the limits of the boundaries of the two conservation areas were placed where they are described. A better approach would be to base the description on HUC digits, include a map which includes the HUC basins and text that provides a more detailed explanation in the context of the utility of either land acquisition under the LPP or management action under the CCP or both.

Purpose and Need

In our view, the simplest approach to identifying project need and purpose is to describe the impact or effect of current or expected future conditions and what actions the project intends to undertake to address these effects or conditions (i.e., what and why here). Section 1.1 thoroughly, but succinctly, describes both the current condition of the Missouri River to which the project is responding and why the project is best located in the NCCA and PBCA. The text in the third paragraph, third sentence, in Section 1.1 'Purpose and Need for Action', although labeled 'need', effectively captures project purpose. The need for a project generally pertains to a specific underlying issue to which the agency is responding. In this case, perhaps loss of habitat for the focal species, or other issues that currently or will in the future, without intervention, prevent the agency from meeting its responsibilities. The 'purpose' described in the following paragraph uses terms that are less clear and more government-speak than already described. We would suggest that you consider reorganizing this section to better isolate and describe project need and purpose. The necessary information is in Section 1.1, but better organization is needed to more clearly identify project 'need' versus the 'purpose.'

Supporting evidence for the need for this action, such as maps of the project area comparing the historical and current properties of the Missouri River basin, as detailed in Chapter 2-History, Vision, and Goals, may be helpful to include.

Additionally, in Section 1.1, 'Purpose and Need for Action,' it appears that the need and the purpose are addressing two entirely separate matters; the third paragraph states that "the need for this *action*..." while the fourth paragraph states "The purpose of this *draft EIS*..." Both the purpose and need statements should be in reference to the action, not the document.

Furthermore, and perhaps of most importance, the purpose and need statements do not match up for the DEIS and the LPP, as each provide differing statements for the project's purpose and need. As aforementioned, the purpose and need are applicable specifically to the action of a project, and not to a document. As such, these statements should be consistent and carry over into both documents.

Alternatives

As expressed in our February 15, 2013, comments during internal review of the DEIS, the range of action alternatives is defined only by the difference in the percentage of the total project area to be acquired under a consistent 80/20 split between easements and fee-title. Those acquisition targets then translate to differing percentages of ecological and fish and wildlife ORVs and cultural, geological, scenic and recreation ORVs as prioritized. This range of alternatives flattens the alternatives analysis and produces an assessment not of differing approaches, but only scale of one approach.

Also, as expressed in our earlier comments, there does not appear to be any basis outlined for selecting Alternative C as the preferred alternative over Alternative D. In Section 5.12, 'Adherence to Planning Goals', and Tables 12 & 13, more evidence to support Alternative D being the environmentally preferred alternative is provided. Specifically, under the *Wildlife, Fisheries, and Their Habitats* subheading, it states that "Alternative D would be most effective in supporting the recovery of these species by protecting 30 percent of riparian areas and 60 percent of the uplands." In Table 12, Alternative D is the only alternative to fully satisfy all of the adherences to planning goals. Given these specific examples and based on the structure of the range of alternatives discussed above, it would appear that more acquisition is preferable to less land acquired and as such, Alternative D would be more preferable. Chapter 5 compares the environmental consequences of the alternatives, but largely lumps the impacts of the action alternatives together in comparison to the 'no action' alternative. The FEIS should clarify the reasoning for selecting Alternative C as the agencies' preferred alternative.

Landscape Prioritization

Section 3.1, 'Criteria for Alternatives Development', contains the explanation of protection and acquisition prioritization. This is a very important component of the EIS and is incorporated into the LPP in Chapter 4. The discussion of the software package "Marxan" was not very clear, particularly regarding "boundary length modifiers" and would be improved if it could be simplified. The first full paragraph on page 37 summarizes the targets for priority acquisition based on the percent of land supporting focal species habitats or essential river features and the percent of land supporting cultural, geological, scenic and recreation ORVs. Although the reader could assume that these percentages were developed from the Marxan model, the text does not provide adequate explanation for their origin. The alternatives target three percentages of acquisition of the total project area and, within each alternative, specified percentages of land resources are further targeted, but that transformation is not adequately explained. This is the crux of the overall approach and is fundamental to the LPP. Figures 11 through 13 are useful, but could be improved with finer resolution which would allow the reader to better see the higher priority areas within each conservation area. This would be particularly helpful within the LPP which should provide more detail on higher priority acquisition and management areas than is necessary to the EIS.

Development of the Comprehensive Conservation Plan

Section 1.6 refers to the eventual development of a CCP, "once adequate properties have been acquired", for the two conservation areas. The EIS would be improved with an explanation of the purpose of a CCP, the transition from an LPP to a CCP and whether that will require NEPA compliance.

Other Miscellaneous Comments

Section 4.2, 'Biological Resources', in the DEIS mentions that hydraulic fracturing is a key element in the development of natural shale gas fields, of which several are under development or forecast for development in the basin, but does not address whether these or similar actions would be permitted on conservation easement lands under the easement and fee-title requirements outlined in Chapter 4 of the LPP.

Lastly, Section 4.5, 'Human History and Cultural Resources', mentions that the lands in the proposed conservation areas have not been assessed nor evaluated for eligibility for inclusion on the National Register as traditional cultural properties. Being that it is the park staff's responsibility to 'preserve, protect, interpret, restore, and enhance the Recreational River's exceptional natural and cultural resources," the LPP and CCP should include a commitment to assess or evaluate these lands.

Draft Environmental Impact Statement Rating Definitions

Environmental Impact of the Action

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative. EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

11201 Renner Boulevard
Lenexa, Kansas 66219

FEB 15 2013

Mr. Nick Kaczor, Land Protection Specialist
U.S. Fish and Wildlife Service
134 Union Blvd., Suite 300
Lakewood, CO 80228

Dear Mr. ^{NICK}Kaczor:

Thank you for the opportunity to review the Draft Environmental Impact Statement and Land Protection Plan for the proposed Niobrara Confluence and Ponca Bluffs Conservation Areas prior to public release as provided in the 2012 Memorandum of Understanding between the U.S. Fish and Wildlife Service and the U.S. National Park Service and Federal and State cooperating agencies, including the U.S. Environmental Protection Agency. We are submitting these comments as part of the internal review of the documents as provided under the MOU and will provide additional comments on the DEIS during public review consistent with our responsibilities under the National Environmental Policy Act and section 309 of the Clean Air Act regarding the independent review and rating of the LPP DEIS.

The NCCA and PBCA project areas are located in northeast Nebraska and southeast South Dakota incorporating all of the areas administered by the NPS and jointly managed by the NPS and the U.S. Army Corps of Engineers as the Missouri National Recreational River. The project area includes two separate land management units incorporating lands in six Nebraska and six South Dakota counties delimiting a watershed around the main channel Missouri River from Fort Randall dam to the upper area of Lake Lewis and Clark and Gavins Point dam to the farthest downstream end of MNRR, the lower 25 miles of the Niobrara River and the lower reach of Verdigre Creek. The proposed action would establish these conservation areas and adopt a LPP which would outline a landscape-level strategic habitat conservation plan to protect wildlife, fisheries and habitat in this portion of the Missouri River basin.

The DEIS includes three action alternatives and a 'no action' alternative. The 'no action' alternative is defined as the status quo implementation of existing management plans and actions. The three action alternatives are distinguished, primarily, by the land acquisition goals within each conservation area (5 percent, 10 percent and 15 percent of the total project area). Acquisitions under all action alternatives will be secured with willing sellers using conservation easements for 80 percent of the acquisitions and fee title purchases for the remainder.



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After reviewing both the pre-release DEIS and the draft LPP, we offer the following comments regarding portions of the DEIS. In addition to the general comments below, we have enclosed editorial comments specific to sections within the DEIS as requested.

Summary and Introduction

Although the DEIS Summary does provide a general description of the conservations areas and Chapters 1 and 3 provide detailed descriptions of the physical and biological resources within the MNR, the PBCA and the NCCA, we could not locate anywhere in the DEIS a description of the areal extent of the two units or the basis for the identified boundaries of each unit. Clearly, the boundaries of each conservation area do not fully incorporate the drainage basins of the main channel, the Niobrara River, Verdigre Creek or other tributaries within the Missouri River main channel corridor, but there should be a detailed description of the boundaries, the areal coverage and the basis or criteria for establishing those boundaries. Section 4.2 of the draft LPP does have a limited description of the areal coverages of each unit.

We would also suggest that, within the Introduction, the DEIS describe how a LPP, an interim Conceptual Management Plan, a Comprehensive Conservation Plan and a General Management Plan differ and resemble each other. The DEIS should also clarify how these plans will interact with each other during implementation. There is a brief reference to this in section 4.1 of the draft LPP.

Purpose and Need

The project purpose and need discussion should be strengthened. As written, there are actually three purpose statements addressing the project, the DEIS and the LPP. The purpose statement linked to the proposed action, contained within the first paragraph of section 1.1, is too general to be of much use to the public in evaluating whether the project should proceed. Statements such as “maintain and enhance habitats” and the “survival of Federal trust species” are much too broad to evaluate in this EIS, can be addressed by a range of alternatives in any location within the basin and are too non-specific to this river and this geography. The purpose statement for the DEIS, which is part of the second paragraph of this section, is confusing and, frankly, should focus on the requirements of NEPA pertaining to the issuance of the LPP. The third paragraph of the section discusses the purpose of the LPP and relies upon phrases without much meaning to the public, i.e., “the landscape-level strategic habitat conservation initiative.” I recommend that you condense the discussion of project purpose to a discussion of just that and remove references to the purposes of the EIS and the LPP. In addition, the statement of purpose should be closely associated with the statement of need. It should address the need for the proposed action rather than the legal need to comply with NEPA or the legal need to acquire authority to purchase easements or property. The discussion of project need should precede the purpose statement. The ecological condition of the project area and, more broadly, the corridor of the lower Missouri River are discussed within the affected environment, but summary statements capturing the problems or issues necessitating the development of the LPP and an evaluation of reasonable alternatives should be included in Section 1.1 as part of the definition of the problem or need and supporting the project purpose. The purpose and need section should identify the problem or issue to be addressed, why the project should be located in

this location, why a LPP is the appropriate tool to address the problem and why the Service and the NPS are best suited to execute the project.

Prioritization Process

Although Chapter 1, section 1.6, references FWS guidance on land protection planning and approaches to prioritization, there are no specifics regarding how the FWS and the NPS will prioritize acquisition through the LPP. Figure 2 provides a flow chart which identifies a step in the process at which “high priority parcels” are identified. It appears that the process relies upon the LPP to provide that prioritization, but we found no specifics regarding the prioritization criteria in the DEIS. Section 4.5 of the draft LPP does summarize a prioritization process, but it is not adequately described there and it is not carried over into the DEIS. The substance of this prioritization process should be included in both the LPP and EIS and described in detail.

Goals and Targets

Chapter 1 should also identify the overall goal of the project, in as specific terms as possible, and a list of objectives, with associated indicators, against which a monitoring program can measure success, i.e., adaptive management. A good framework upon which to build a series of specific and measureable objectives is described in section 1.9 as “Significant Issues to Address.” The DEIS would be improved with specific and measureable, if possible quantitative, objectives associated with each of the six issues. How will the LPP address the many aspects of each issue, specifically? Currently, the document provides some general description of important components to each issue, but there are no specific targets or objective either in the DEIS or the LPP. The enclosed table provides more specifics and suggestions.

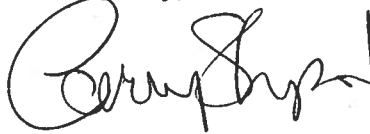
Alternatives

The range of alternatives, as the heart of the EIS, “should present the environmental impacts of the proposal and the alternatives in comparative form” (40 CFR 1502.14). The Council on Environmental Quality regulations also discuss the rigor of the evaluation of alternatives. The current range of action alternatives are differentiated by only the percentage of project area targeted for acquisition. As all alternatives are based on a primary reliance on conservation easements rather than property purchase, distinctions can only be made based on the amount of land acquired. This approach does not provide for much rigor in evaluating all possible approaches to the protection of resources in the project area. Chapter 3, section 3.3, does specify differing amounts of land use and habitat types between the three action alternatives, but these appear to be based, again, solely on increasing total amounts of property acquisition similarly allocated among the four habitat or land use types, i.e., as the total amounts of project area increase, the amounts of land types increase accordingly. In Chapter 5, the environmental consequences largely differ only by incremental amount based on the amount of land secured rather than on the type of action. Simply, in the end, the more land acquired, the better the opportunity for restoration. It is not clear why, given the definition of alternatives, why less land acquisition under Alternative C is preferred over more land acquired under Alternative D.

We recommend that you consider reducing the number of alternatives based on project area acquisition and add an alternative which provides more contrast between approaches to land protection. Added alternatives could include ones based on a different percentage of easement versus fee-title purchase than 80%/20% or multiple alternatives based on the prioritized acquisition of specific habitats and land use/land cover, e.g., riparian forest, upland forest along tributaries, watershed versus main channel Missouri River, confluence areas, high recreational use areas, high use by threatened and endangered species. Of course, these prioritizations could also vary between the two separate conservation areas.

We look forward to receiving the DEIS during the public review period and we appreciate the opportunity to review both documents prior to public review. Please note that EPA has now developed an electronic submission process for EISs. Instructions for submission of the DEIS and FEIS can be reviewed at <http://www.epa.gov/compliance/nepa/submiteis/index.html>. The NEPA programs in EPA Region 7 and 8 request one hard copy and one CD for any EISs submitted for our review. If you have any questions regarding these preliminary comments, please contact me at 913-551-7441 or shepard.larry@epa.gov. Please note that our address has changed.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Shepard", written over a horizontal line.

Larry Shepard
NEPA Reviewer

Enclosure

Proposed Niobrara Confluence and Ponca Bluffs Conservation Areas DEIS & LPP – Internal Review – Comments Due February 15, 2013				
Chapter	Page No.	Section Number	Section Heading	Comment/Suggested Revision
Table of Contents				Suggest separately titling the EIS and the LPP within the Table of Contents and the combination document itself.
Table of Contents				The document notes that the figures appear at the end of the EIS and LPP for each document. I would strongly suggest incorporating figures within the text to the extent possible for both documents rather than placing them at the end of each document, if that really is your intent. I realize that it might be more difficult editorially, but, from a reader's perspective, it's much better to have the figures close to the text.
1	11	1.1		Purpose and Need statements are not specific. See comment letter. Questions which this section should answer: What's the issue/problem? Why locate the project here? Why the FWS and NPS? Why a LPP?
1				Describe what is a Land Protection Plan and its relationship to the Refuge System CCP and the NPS' GMP. The document should define and describe a LPP, CCP and GMP and how they differ and how they are similar and how they interact in land management. Section 4.1 of the draft LPP does provide some context to the LPP/CMP/CCP relationship, but this should be carried into the EIS in expanded detail. Consider reference to other existing LPPs and how those plans have achieved similar objectives elsewhere. Possibly use a stand-alone 'box' or figure within the text.
1	12			The Administration Act is cited a couple of places, but I could not find where it's described.
1				There should be an explanation of how the conservation area or project area boundaries for each of the two units were established, i.e., criteria for delineating boundaries. This should be tied to Figure 1 and, again, the figure should be within the text rather than at the end of the document. Section 4.2 of the draft LPP (p. 190) includes a limited description of the two conservation areas, but there is not a discussion of how boundaries were determined.
1	16	1.5	Contributions to National and Regional Plans	I would not recommend making assumptions regarding future Congressional funding for MRERP. I would simply cite the purpose of the Plan and its status. I would also add a description of the Missouri River Mitigation Project managed by the Corps to mitigate for lost fish and wildlife habitat along the channelized and stabilized lower river and the recently started Missouri River Recovery Management Plan which has a smaller scope than MRERP and is also being developed by the Corps' Omaha and KC Districts.
1		1.5		I recommend you review the water quality standards for both Nebraska and South Dakota and identify components within each State's standards regarding use designations and protections under their anti-degradation policies and provisions, particularly the designation of Outstanding National and State Resource Waters within the project area.
1	17	1.6	Planning Process	This section references Figure 2 (include within body of document) and a process by which land parcels are identified as "high priority." Along with Figures 10 and 11, this area of the document

Proposed Niobrara Confluence and Ponca Bluffs Conservation Areas DEIS & LPP – Internal Review – Comments Due February 15, 2013					
Chapter	Page No.	Section Number	Section Heading	Comment/Suggested Revision	Commenter
				introduces the concept of a process of prioritizing acquisition, but never explicitly explains how that prioritization occurs, i.e., criteria or benchmarks. Section 4.5 of the draft LPP does summarize the use of Outstandingly Remarkable Values (ORVs) developed for the MNRR to prioritize landscape acquisition. This is critical to both the DEIS and LPP and is a significant omission in the DEIS. Text and other figures (3 through 9) provide criteria by which specific locations or habitat types should be prioritized for acquisition, but the specifics of the process and the criteria are never described in the DEIS. I recommend that you take the summary from section 4.5 and expand it to more clearly describe how lands will be prioritized for acquisition.	
1	19	1.9	Significant Issues to Address	The document states that “Significant issues are those that are within [our jurisdiction] that suggest different actions or alternatives and that will influence the decisionmakers.” NEPA regulations require that the lead agency consider “reasonable alternatives not within the jurisdiction of the lead agency” (40 CFR 1502.14(c)).	
1	19	1.9	Significant Issues to Address	Somewhere within Chapter 1, possibly following section 1.1 or as part of section 1.9, the DEIS should clearly identify and specify the goal of the project and list objectives which should be specific and measurable. The 6 ‘significant issues to address’ within section 1.9 could serve as an appropriate framework for constructing measurable objectives. Currently, there is nothing specific associated with these ‘issues’, making the measurement of project success and adaptive management impossible. For example and your consideration: Wildlife, fisheries and habitats-prioritize acquisition of land types, forms and cover linked to species needs, e.g., riparian forest, bankline, backwaters, confluences, etc.; Cultural Resources-surveys of project areas, documentation of locations, artifacts; Public Use and Access-Installation or improvement of boat access, riverside trails, viewing platforms; Socioeconomics- targets for visitor days, educational events, cleanup events, targets for PILT and RRS amounts; targets for acreage acquired by easement or payment; River Functionality-increasing length of river shoreline, increased number of sand bars, increase in amount of woody debris, completion of biological surveys; Partnerships and Collaboration-acquisition targets; adjacent land acquisitions by other organizations, etc.	
2				This chapter desperately needs some figures with maps or other illustrations of area resources. Frankly, this chapter is lifeless and could be very helpful in understanding the complexities of the basin.	
3				As discussed in the comment letter, the range of alternatives is limited in scope and the comparison becomes nothing more than just a list of percentages and acreages. Fundamentally, I recommend you limit the number of alternatives based solely on acreage acquisition and add at	

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Chapter	Page No.	Section Number	Section Heading	Comment/Suggested Revision	Commenter
				least one alternative based on a different approach, e.g., more fee title than easement, differing prioritization scheme, etc.	
3	34	3.4	Goals and Strategies	I recommend that you consider having the “Significant Issues to Address” from Chapter 1, section 1.9, and the “Goals and Strategies” the same. There is a lot of overlap between the two, but it makes more sense to maintain some continuity through the document.	
3	36	3.4	Climate Change	I would submit that, without specifics and targets linking this objective to results, the inclusion of a separate category for climate change is cosmetic and more ‘check the box.’ Acquisition prioritization targeting riparian forests with targets would be a measureable increase in GHG reduction in the area, for example.	
3	38	3.7	Monitoring and Evaluation	Without a more detailed description of LPP implementation monitoring, there will be no means of measuring achievement or progress. There should be funding targets for LPP implementation as well. Without an improved monitoring component, adaptive management is not possible. In addition, proper monitoring of BMPs are critical to the project and the LPP should identify who will be monitoring their implementation and how often. This appears to be addressed in this section, but an expansion of this section to specifically address BMPs would be an improvement.	
4				This chapter could use some figures and maps. I might have just missed them, but I found no references to Figures 3 to 9 which are species- or resource-specific maps.	
4	45	4.2	Biological Resources	Species narrative inventory omits information characterizing Verdigre Creek and the Niobrara River which are within the NCCA. The coverage in the EIS should be broadened to include species and condition inventories specific to these important components of the NCCA.	
4		4.1	Physical Environment	Chapter 4, both within the description of the conservation areas’ physical environment and the characterization of invertebrate populations in Section 4.2, should place greater emphasis on the importance of woody debris in the two MNRR segments and the impact of reduced quantities of this important component of habitat. The increase of woody debris associated with an increase in channel meandering and riparian forest growth should be a major objective of the LPP.	
4	52	4.2	Biological Resources	First full paragraph, second sentence. Should it be “spawning season” rather than “sturgeon season?”	
4	53	4.2		The narrative describing the numbers and locations of Interior Least Terns within the project area, the Missouri River basin and the larger Mississippi River basin is confusing. Please clarify for each citation of number, the specific location of those populations, i.e., Missouri River basin wide, within the project area or Mississippi River basin wide. It might be helpful to consolidate population data specific to the project area, the Missouri River basin and the Mississippi River basin or nation and for the progression of years. Not a major issue certainly, but it gets a little confusing as the data bounces between locations and across years.	

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Chapter	Page No.	Section Number	Section Heading	Comment/Suggested Revision	Commenter
4	54			The data on Plovers seems contradictory in the last two paragraphs of this section. The last paragraph on page 54 states that most of the birds found in 2011 on the Missouri River were found at the deltaic headwaters of Lewis and Clark Lake while the last paragraph says that 23.6% of the birds in the Missouri River system are found in the Ponca Bluffs segment versus 3.2% in the Niobrara Confluence segment.	
4	55			The heading for the Western Prairie Fringed Orchid states ‘threatened’ and the text says ‘endangered.’	
5		5.2	Assumptions	As the acquisition of property and easements is driven by available funding almost as much as by willing landowners, the assumption that money and staff adequate to execute ANY alternative seems to preclude an assessment of the viability of alternatives based almost exclusively on the amount of land acquired. The justification for making this assumption across all alternatives should be provided in this document. It’s elimination as a criterion for evaluating alternatives appears to preempt a complete evaluation.	
5	75	5.2	Assumptions	Monitoring frequency of once every five years should be justified. Again, there is no environmental monitoring plan provided in either document so it’s difficult to know whether the frequency fits the design or intent of the program.	
5				The evaluation of alternatives for environmental consequences does little more than confirm that the more land acquired through one of the two mechanisms the better for the resource. Not a very sophisticated assessment of impacts as it is limited by a reduced range of alternatives or alternative types and the absence of measurable objectives.	
5	87	5.7	Environmental Consequences for Cultural Resources	Within “Alternatives B-D”, the document states that “Greater Federal and State involvement would also spur the potential application of other laws and regulations that concern cultural resources.””The Archaeological Resource Protection Act would become applicable on these newly acquired lands.” Is this true for both lands purchased in fee-title and privately owned lands with an easement?	